DOCKET NO.: MSFT-2845/306724.01
Application No.: 10/692,508
Office Action Dated: February 5, 2008

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

REMARKS

Claims 1-5, 7-15, 17-25, and 27-30 are pending in the application. Claims 1, 11 and 21 are independent claims. Claims 1-5, 7-15, 17-25, and 27-30 stand rejected.

Claim Rejections – 35 USC § 101

Claims 11-15, and 17-20 stand rejected under 35 U.S.C. § 101 as directed towards non-statutory subject matter since "they are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category." (Office Action at p. 2). The Examiner additionally stated that the claimed subject matter is "nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer." (Office Action at p. 2) Applicants have amended claims 11-15, and 17-20 and submit that they are directed towards statutory subject matter.

Section 101 of title 35, United States Code, provides:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Applicants respectfully submit that claims 11-15 and 17-20 are directed towards a machine, which is a statutory recognized class of patentable subject matter. The Examiner cited *Diamond v. Diehr*, 450 U.S. 175, 182 [209 USPQ 1] (1981) in support of the position that the claimed subject matter is nonstatutory, however the Examiner's reliance on Diehr is misplaced. In *Diehr*, the court held that disembodied mathematical equations represent abstract ideas and are not patentable until reduced to some type of practical application, i.e., "a useful, concrete and tangible result." *In re Alappat*, 33 F.3d 1526, 1544, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994) (in banc). In *Alappat*, the court reversed the examiner's rejections because the claims were directed towards a machine, not a mathematical formula. *See, e.g., Alappat*, 35 F.3d at 1545. Similarly, Claim 11 is not directed towards an abstract mathematical equation, but to a machine with circuitry configured to perform functions. In some embodiments of the present disclosure, the circuitry can be hardware, or a combination

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of hardware and software. In embodiments that include software, the system of claim 11 becomes a special purpose machine when the processor executes the software code. Accordingly, since claim 11 is directed to statutory subject matter Applicants respectfully request reconsideration of the rejection of claim 11.

Insomuch as claims 12-15 and 17-20 depend directly or indirectly from claim 11 they too are directed towards statutory subject matter. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 12-15 and 17-20.

Claim Rejections – 35 USC § 112

Claims 1-5, 7-15, 17-25, and 27-30 stand rejected under 35 U.S.C. § 112, second paragraph for allegedly being indefinite. Without conceding the proprietary of the rejection Applicants have amended claims 1-5, 7-15, 17-25, 27-30. Accordingly, Applicants respectfully submit that the rejection is overcome.

Claim Rejections – 35 USC § 103

Claims 1-5, 7-15, 17-25, and 27-30 stand rejected under 35 U.S.C. § 103(a) over Peng U.S. Patent Application No. 09/776,598 ("Peng") in view of U.S. Patent No. 7,013,313 ("LaRue"). Applicants submit that Peng fails to teach or suggest "maintaining, by the first instance of the data platform, a separate vector, wherein the separate vector corresponds to the enumerated change units in sequential order, and a most recent known change number of a second instance of the data platform, wherein the separate vector represents all changes that have been made to the first instance of the data platform" as recited by amended claim 1. According to Peng, a "version vector is a vector of a pair of indicators: replica – ID and time stamp. The replica-ID identifies an object store replica in a system. The time stamp is typically generated by an object store replica to indicate the last known time (not necessarily the actual last time) that the object store replica has updated at least one of its objects." (Peng at paragraph [0036]). Applicants submit the version vector in claim 1 is patentably distinct from the version vector taught by Peng.

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In the Office Action the Examiner conceded that Peng did not disclose "transmitting, by the first instance of the data platform, the change to the parent change unit of the parent item prior to transmitting the change to the first change unit of the first item" and turned to LaRue. Applicants submit that LaRue fails to teach or suggest this subject matter. The Examiner cited column 33, line 45 to column 34, line 38 and FIG. 8 of LaRue as allegedly disclosing this subject matter. Applicants disagree. Figure 8 depicts a flowchart that describes a method for synchronizing. The cited portion of LaRue states that if values of the parent record and local copy are conflicting, then the Infomanager performs conflict resolution. (See, e.g., col. 33, lines 45-50). The Infomanager may use a manually-assisted conflict resolution policy that presents the conflicting fields to the user and allows the user to make a decision. (See, e.g., col. 33, lines 56-60). According, to LaRue, the method of figure 8B is also useful for synchronizing a freshly-added parent record into a child dataset stating that "[f]or such as freshly-added parent record, the child dataset, in general, does not already include a local copy of the parent record… The Infomanager courtesy-notifies the user of the added record, … and preferably … refreshes any possibly-stale display … that is currently displaying … the child dataset." (LaRue, at col. 34 lines 12-17). Applicants submit however that this fails to teach or suggest "determining, by the first instance of the data platform, that the second instance of the data platform does not include the change to the first change unit of the first item and the change to the parent change unit of the parent item in accordance with the second vector; and transmitting, by the first instance of the data platform, the change to the parent change unit of the parent item prior to transmitting the change to the first change unit of the first item." Accordingly, for at least these reasons Applicants respectfully request reconsideration of the rejection to claim 1.

Insomuch as independent claim 21 recites similar elements to that of claim 1, it too patentably define over Peng for at least similar reasons. Accordingly, Applicants respectfully request reconsideration of the rejection to claim 21.

Insomuch as claims 2 – 5, 7 – 10, 22 – 25, and 27 – 30 depend directly or indirectly from claims 1, or 21 they too patentably define over Peng for at least the reasons stated above with respect to claims 1. Accordingly, Applicants respectfully request reconsideration of the rejections to claims 2 – 5, 7 – 10, 22 – 25, and 27 – 30.

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Regarding claim 11, Applicants respectfully submit that the prior art of record fails to teach or suggest "circuitry configured to effectuate an operating system that includes a file system integrated with a database management program, the operating system configured to store data received from application programs in the file system as file streams, and the operating system configured generate Items associated with the file streams in the database management program each item stored in the database management program of the operating system including at least one change unit." Applicants respectfully submit that Peng and LaRue are silent as to whether the database management programs are integrated with the file system and a part of the operating system. The configuration of claim 11 overcomes the problem in the art in which "[d]evelopers …invest significant amounts of time and money in building their own data stores for common storage abstractions. Not only does this result in duplicated work, but it also creates islands of common data with no mechanisms for common searching or sharing of that data." Accordingly, since neither LaRue or Peng teach or suggest an operating system that includes a database management system integrated with a file system, Applicants respectfully request reconsideration of the rejection of claim 11.

Insomuch as dependent claims 12-15, and 17-20 depend directly or indirectly from claim 11 they too patentably define over LaRue in view of Peng. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 12-15, and 17-20.

CONCLUSION

Applicants request the Examiner reconsider the rejections and issue a Notice of Allowance of all the claims.

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